IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

WEDNESDAY, THE 3RD OCTOBER 2007 / 11TH ASWINA 1929

Crl.MC.No. 3033 of 2007()

CP.23/2007 of JUDL.MAGISTRATE OF FIRST CLASS-II, CHENGANNUR

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PETITIONER: ACCUSED

SATHEESH BABU V.S., VALAYIL PUTHENVEEDU,
PANDANADU NORTH P.O., PANDANAD VILLAGE,
CHENGANNUR.

BY ADV. SRI.S.SANAL KUMAR

RESPONDENTS: COMPLAINANT

STATE OF KERALA,
REPRESENTED BY THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.

BY ADV. SRI. M.S. BREEZE, PUBLIC PROSECUTOR

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 03/10/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J

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Crl.M.C. No.3033 Of 2007

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Dated this the 3rd day of October, 2007

ORDER

The petitioner faces indictment in a prosecution under the provisions of Kerala Abkari Act. Investigation is complete. Final report has been filed. Cognizance was taken and the matter is pending before the committal court. The petitioner has not been arrested so far. The petitioner was not available here as hewas employed at Pune. The petitioner finds warrant of arrest issued by the learned Magistrate is chasing him now. The learned counsel for the petitioner submits that the petitioner is absolutely innocent. The absence of the petitioners earlier was not wilflul. He is willing to surrender before the learned Magistrate but he apprehends that his application for bail may not be considered by the learned Magistrate, in accordance with law and expeditiously. He therefore prays that a direction may be issued under Section 482 Cr.P.C to the learned Magistrate to release him on bail when he appears and applies for bail.

2. It is for the petitioner to appear before the learned Magistrate and explain to the learned Magistrate the circumstances under which he could not earlier appear before the learned Magistrate. The learned Magistrate must consider such application for bail on

merits, in accordance with law and expeditiously. I have no reason to assume that the learned Magistrate would not consider such application on merits, in accordance with law and expeditiously. Every court must do the same. No special or specific direction appears to be necessary. Sufficient general directions have already been issued in **Alice George v. The Deputy Superintendent of Police [**2003(1) KLT 339].

3. This Crl.M.C. is, in these circumstances, dismissed, but with the specific observation that if the petitioner surrenders before the learned Magistrate and applies for bail after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass appropriate orders on merits and expeditiously- on the date of surrender itself. The petitioner's application must be considered in the light of **Sukumari v. State of Kerala (2001 (1) KLT 22)** also.

(R.BASANT, JUDGE)

sj

/TRUE COPY/

P.A.TO JUDGE